

**STATEMENT OF ADA E. DEER, ASSISTANT SECRETARY - INDIAN AFFAIRS,  
DEPARTMENT OF THE INTERIOR, AT THE HEARING BEFORE THE  
COMMITTEE ON INDIAN AFFAIRS, UNITED STATES SENATE, ON S. 441, A  
BILL "TO REAUTHORIZE APPROPRIATIONS FOR CERTAIN PROGRAMS  
UNDER THE INDIAN CHILD PROTECTION AND FAMILY VIOLENCE  
PREVENTION ACT, AND FOR OTHER PURPOSES."**

March 22, 1995

Good afternoon, Mr. Chairman and Members of the Committee. I am pleased to be here to support the enactment of S. 441, the reauthorization of the Indian Child Protection and Family Violence Prevention Act (Act), within existing funding constraints. I have with me today Ms. Joann Sebastian Morris, Acting Director of the Office of Tribal Services, and Mr. Theodore Quasula, Chief of the Division of Law Enforcement. They will assist me in responding to any technical questions the Committee may have.

Earlier this month we presented testimony which detailed the dramatic increase in reporting of child abuse in Indian country. The rate of increase is so significant, it bears repeating.

In 1993 the BIA Social Services received 31,901 child abuse complaints, an increase of 445% from the statistics brought to this Committee during its 1987 child abuse hearings. In 1994, the number of complaints dropped to 25,919; however, we believe this reduction is due to a decrease in the number of tribes reporting to the BIA, not to a decrease in incidents.

Last year, BIA Criminal Investigators conducted 442 investigations of cases in which children were victims, including sexual contact, incest, sexual abuse, physical abuse, and felony sexual molestation. BIA Social Services received notice that State courts, adjudicating the interests of off-reservation Indian children, granted 46 adoptions, terminated the rights of 50 Indian parents, and issued 155 notices of abuse and neglect.

I would first like to review activities undertaken by the BIA to implement the Indian Child Protection and Family Violence Prevention Act. Greater detail is provided in our 1995 Child Abuse and Family Violence Prevention Plan which was submitted to the Committee March 3.

This year we plan to publish **Proposed regulations** establishing Minimum Standards of Character and Program Guidelines for Tribal Child Protection and Family Violence Programs and Distribution of Funds Formula. Tribal review of draft regulations and consultation was conducted August 30, 1994, in Oklahoma City, following which the minimum standards of character and the funding formula were redesigned, by tribal and BIA personnel. The Solicitor's staff completed its first review of the regulations and plans to complete final revisions this month. It is our plan that the regulations will undergo simultaneous review within BIA and the Department; in addition, BIA staff hopes to solicit comments on the draft proposed regulations from the participants at the National Indian Family Preservation Conference in Phoenix, April 12. Following the required OMB clearance, the proposed regulations will be published with a 60 day public comment period.

Currently, BIA **background investigations** are processed through the Office of Personnel Management. BIA's program to protect children includes investigating the background of its own employees who have regular contact with, or control over, Indian children, and assisting tribes in conducting background investigations on applicants for employment in these types of positions. Eight security officers adjudicate applicants for and employees in 7,000 sensitive positions within BIA Office of Indian Education Programs, Social Services, and Law Enforcement. All persons in positions with regular access to children are identified by position title, name, social security number, date of birth, entry date, and duty station; and are scheduled for reinvestigation every five years.

As one check on the background of applicants, tribes may request FBI criminal history records. While some tribes have been successful in accessing state and FBI criminal history records, many tribes still have problems. Consequently, criminal history checks are not routinely conducted and many tribes have requested the BIA provide this service. The FBI has requested that BIA process tribal requests as we did for gaming tribes before the National Indian Gaming Commission assumed the responsibility. We have been working with the FBI and will be negotiating an agreement to assure that tribes, through the BIA, will have access to FBI fingerprint criminal history records. Additional staff will be required to process tribal inquiries and the cost will be borne by the BIA. Contract and grants funding may be utilized by the tribes to pay the \$22 charge for each inquiry.

Our proposed regulations make clear the continuing responsibility of tribes. Specifically, we are emphasizing to tribes that criminal history records checks are only a small part of an overall background check, and simply because a criminal history record does not exist for an applicant it does not mean there have been no incidents of inappropriate prior conduct. Tribal hiring officials must ensure that a comprehensive review of former employment records, personal references, residences, local law enforcement records, education records, and personal interviews are conducted.

The feasibility study for a central registry on child abuse in Indian country was completed in October, 1994. The study recommended the establishment of a central registry to provide more complete data on child abuse in Indian country and to track convicted perpetrators. BIA is exploring the costs, benefits, and feasibility issues raised by this recommendation. We are also considering the possibility of collaboration with the National Center for Child Abuse and Neglect of the Department of Health and Human Services. Replication of existing and new programs, as well as cost, are critical factors in our review.

**BIA and Indian Health Services (IHS) collaboration** has been continuous and quite productive. As indicated in our Plan, we are refining our memoranda of agreement and understanding to provide services to children and their families, and are developing new cooperative initiatives. For example, the BIA and IHS jointly funded the Cherokee Nation Child Abuse Prevention Project; and with the Intertribal Council of Arizona, are co-sponsoring the first National Indian Family Preservation Conference in April 1995.

BIA and IHS staff coordinate an inter-agency National Child Protection Team, and area and agency level inter-disciplinary Child Protection Teams, many of which now include United States Attorneys and representatives from State social services agencies. The BIA and IHS meet quarterly as the National Indian Child Protection Team, and participate in the Interagency Indian Children's Mental Health Council.

BIA and IHS are developing residential treatment programs at juvenile detention centers, and IHS is assisting the BIA and tribes in implementing therapeutic and wellness models at one grant school and one BIA off-reservation residential school. IHS participates in BIA's Indian Police Academy training programs, particularly the regional multi-disciplinary training program with the United States Attorneys, on the identification, investigation, and prosecution of child abuse and domestic violence.

Both BIA and IHS utilize *Linkages*, a publication of BIA Social Services, and *Prevention Quarterly*, a publication of BIA Office of Alcohol and Substance Abuse Prevention (with total subscriptions of 5,000) to address issues of concern to tribes and disseminate information.

**Indian child protection and family violence prevention program** funds have been requested in the President's 1996 BIA Budget and will be equitably distributed to American Indian and Alaska Native communities to develop prevention and treatment,

multidisciplinary child abuse investigation and prosecution, tribal codes, training, or community education programs.

Priority has been given to the funding and developing of tribal rather than BIA programs. Special child abuse initiative funds were incrementally appropriated during fiscal years 1989-1991 for critical child protection and staffing needs in the field. In response to tribal recommendations, these funds, totalling \$7.6 million, have been added to the tribe/agency tribal priority allocation budget system and are subject to tribal priority setting.

We have also encountered programmatic barriers to the implementation of the Indian Child Protection and Family Violence Prevention Act.

We have received reports that tribal and federal personnel have suffered retaliation, including job loss, as a result of good faith reporting of child abuse. BIA regulations will be revised to require compliance with 18 USC §§ 1512 and 1513, but we recommend as well that the reauthorization of the Act include a prohibition against retaliation following good faith reporting of child abuse.

Vacancies in both the Office of the Child Protection Coordinator and Office of Alcohol and Substance Abuse Prevention have slowed collaborative efforts and new initiatives in recent months. Directors for each important coordination office are being recruited, and selection of the Child Protection Coordinator will take place shortly.

The \$5 million is included in the President's FY 1996 BIA Budget to begin meaningful program development by tribes, including comprehensive child abuse and family violence prevention programs. As a starting point, tribes will be able to enhance existing programs with the FY 1996 funds with the option of redirecting funds from other

available tribal resources.

We must realize that abuse is a symptom of increasing stress within both families and communities. As stress factors increase, so will violence whether it is self-inflicted or focused at others.

Recent legislative initiatives threaten already diminished resources that sustain many Indian families, such as WIC, AFDC, Food Stamps and the Commodity Supplemental Food Program. If these and similar tribal programs that are essential to tribes are eliminated, BIA and local providers cannot possibly fill the void. In essence there will be no safety net for Indian children and their families.

The impact of current proposed legislation is far reaching. It is likely that the BIA will experience an increase in the number of American Indian and Alaska Native children adjudicated as abused and neglected. Such cuts would seriously hinder the ability of tribes and villages to develop comprehensive, multi-disciplinary programs to meet the needs of Indian children and their families.

We applaud Senator McCain for his proposed reauthorization of the Indian Child Protection and Family Violence Prevention Act. It serves as a symbol for the focused attention we intend to give to these issues. And, with funding authorized to tribes to support the development of local level programs and solutions, we hope to see a reduction in the statistics we shared in the opening of our testimony. The BIA will do all it can to partner with tribes and our colleagues in the Indian Health Services and other agencies to work toward that goal.

This concludes my prepared statement. I and my staff will be pleased to answer questions the Committee may have.